

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

IDA G. GARCIA RODRIGUEZ,

Plaintiff,

v.

PUERTO RICO TELEPHONE CO.,

Defendant.

Civil No. 02-1969 (JAF)

O R D E R

Plaintiff, Ida G. García Rodríguez, filed the present complaint against Defendant, Puerto Rico Telephone Co. ("PRTC"), alleging age discrimination, gender discrimination, sexual harassment, hostile work environment, and unlawful reprisal in violation of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e to 20003-17 (2003 & Supp. 2004); the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. §§ 621-634 (1998 & Supp. 2004); and various state laws. Docket Document Nos. 1, 13. On February 12, 2004, we denied Defendant's September 18, 2002, motion to dismiss. Docket Document No. 20. On September 30, 2004, Defendant filed a motion for summary judgment. Docket Document No. 29. We granted Defendant's motion on November 23, 2004, finding that while Plaintiff did establish a prima-facie case of discriminatory action, Defendant rebutted the claim by forwarding a legitimate, non-discriminatory, and non-pretextual reason for the adverse employment action. Docket Document No. 47. On the basis of our decision, Defendant moves for

Civil No. 02-1969(JAF)

-2-

1 attorney's fees and costs pursuant to Rule 54(d) of the Federal Rules
2 of Civil Procedure and Local Rule 332. Docket Document No. 49.

3 In the United States, the general rule is that, in the absence
4 of legislation providing otherwise, litigants must pay their own
5 attorney's fees. Christiansburg Garment Co. v. EEOC, 434 U.S. 412,
6 415 (1978). Although under selected statutes, Congress has provided
7 for the prevailing party to obtain attorney's fees, Title VII is
8 "more flexible . . . entrusting the effectuation of the statutory
9 policy to the discretion of the district courts." Id., at 416. Under
10 § 706(k) of Title VII, a prevailing plaintiff is ordinarily to be
11 awarded attorney's fees in all but special circumstances. Id., at
12 417. However, the considerations for a prevailing defendant are
13 different, and justify a more stringent standard. "[A]ttorney's fees
14 may not be awarded to a prevailing defendant unless there is a
15 'finding that the plaintiff's action was frivolous, unreasonable, or
16 without foundation' or that 'plaintiff continued to litigate after it
17 clearly became so.'" Bercovitch v. Baldwin School, Inc., 191 F.3d 8,
18 10 (1st Cir. 1999) (quoting Christiansburg Garment Co., 434 U.S. at
19 421). In civil rights cases, "fee-shifting in favor of a prevailing
20 plaintiff is the rule, whereas fee-shifting in favor of a prevailing
21 defendant is the exception." Casa Marie Hogar Geriatrico, Inc. v.
22 Rivera-Santos, 38 F.3d 615, 618 (1st Cir. 1994).

23 Section 626(b) of the ADEA takes a similarly circumspect
24 approach in awarding a prevailing defendant attorney's fees. See Cote

Civil No. 02-1969(JAF)

-3-

1 v. James River Corp., 761 F.2d 60, 61 (1st Cir. 1985) (applying
2 Christiansburg standard in deciding attorney's fees for prevailing
3 defendant in Title VII and ADEA case); Tang v. State of R.I., Dep't
4 of Elderly Affairs, 163 F.3d 7, 13 (1st Cir. 1998) (considering Title
5 VII and 42 U.S.C. § 1988 (1999 & Supp. 2004) fees under the same
6 standard); Freeman v. Package Mach. Co., 865 F.2d 1331, 1347 (1st
7 Cir. 1988) ("Insofar as cost-shifting is concerned, laws such as 29
8 U.S.C. § 626(b) and 42 U.S.C. § 1988 seem sisters under the skin.").

9 In determining whether to award a prevailing defendant
10 attorney's fees, a court must "resist the understandable temptation
11 to engage in *post hoc* reasoning by concluding that, because a
12 plaintiff did not ultimately prevail, his action must have been
13 unreasonable or without foundation." Christiansburg Garment Co., 434
14 U.S. at 421-22.

15 The bare facts of this case present no indication that
16 Plaintiff's suit was groundless. In our summary judgment decision,
17 we found that Plaintiff may have suffered an adverse employment
18 action. Docket Document No. 47. We found Defendant's rebuttal
19 convincing, and though we ultimately decided that the inference of
20 discrimination had been dispelled, we are unwilling to conclude that
21 our failure to find in Plaintiff's favor renders her claim frivolous.

22 As indicated by our opinion, such a determination warranted
23 considerable discussion and a bona-fide analysis of Plaintiff's
24 proffered evidence; while unlikely, a more artful pleading or

Civil No. 02-1969(JAF)

-4-

1 presentation of evidence may have led this court to a different
2 conclusion. Although Plaintiff's claim was ultimately unsuccessful,
3 it did not fall to the level of frivolousness which would require us
4 to bestow upon her the burden of attorney's fees.

5 Furthermore, even if a plaintiff's suit is groundless when
6 filed, "the district court still retains discretion to deny or reduce
7 fee requests after considering the nuances of a particular case."
8 Tang, 163 F.3d at 15; Adkins v. Briggs & Stratton Corp., 159 F.3d
9 306, 307 (7th Cir. 1998) (holding that a court is not required to
10 award attorney's fees to a defendant, and even though attorney's fees
11 may be appropriated, they are not mandatory); see Bercovitch, 191
12 F.3d at 12. A district court may "deny or reduce [the] amount [of
13 attorney's fees] after considering the plaintiff's financial
14 condition." Andrade v. Jamestown Hous. Auth., 82 F.3d 1179, 1193
15 (1st Cir. 1996); Charves v. W. Union Tel. Co., 711 F.2d 462, 465 (1st
16 Cir. 1983) (noting that an award of attorney's fees to a prevailing
17 defendant ought consider the plaintiff's financial capacity).

18 In light of the standards set forth above, we decline to award
19 attorney's fees to Defendant. Although this court granted
20 Defendant's motion for summary judgment, Docket Document No. 47,
21 there is no indication that Plaintiff's claim was frivolous or
22 entirely groundless. Defendant's argument that Plaintiff's case was
23 unreasonable merely because Plaintiff did not establish that
24 Defendant's justification for an adverse employment decision was

Civil No. 02-1969(JAF)

-5-

1 pretextual is the type of post-hoc reasoning this court must avoid.
2 Christiansburg Garment Co., 434 U.S. at 421-22.

3 We, therefore, **DENY** Defendant's motion for attorney's fees.
4 Docket Document No. 49.

5 **IT IS SO ORDERED.**

6 San Juan, Puerto Rico, this 13th day of April, 2005.

7 S/ José Antonio Fusté
8 JOSE ANTONIO FUSTE
9 Chief U. S. District Judge